



Patent  
Attorney Docket No. 032,290-066

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

## FULTON

**Serial No.: 10/628,090**

Filed: July 25, 2003

## For: BIOPSY LOCALIZATION METHOD AND DEVICE

Group Art Unit: 3736

Examiner: Szmal

## **SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement (“IDS”) are brought to the attention of the Office. The items are listed on the attached form PTO-SB/08a and PTO-SB/08b.

The items identified in this IDS may or may not be “material” pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as “prior art” under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

## INFORMATION DISCLOSURE STATEMENT FILING PROVISION:

This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a final Office action on the merits.

**CERTIFICATE OF MAILING (37 C.F.R. §1.8)**

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class mail in an envelope addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

March 21, 2006  
Date of Deposit  
NB1:671521.1

Cynthia B. Pacheco  
Cynthia B. Pacheco

Cynthia B. Pacheco

03/24/2006 MBLANCO 00000008  
01 FC:1806 180.00 DA

mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

- However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.
- However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.
- This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.
  - The fee due under 37 CFR § 1.17(p) is submitted herewith.
  - A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.
- This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

**Statement Under 37 CFR § 1.97(e):**

- Each item contained in this IDS was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.
- No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

Some references are in a language other than the English language. A concise explanation of relevance is given below (English language abstracts).

**DE 3913935**

A catheter (1), for removing stones from the ureter, is made from flexible plastics with a retractable mandrel (6) which passes through the catheter from one end to the other. The distal end of the

mandrel (6) is attached to a short strip of net-like material (2). A fine wire (5) also passes through the catheter and its distal end is attached to a plastic tip (3) which fits over the pointed end of the net-like strip so that a loop is formed between the wire (5) and the net (2). By pulling on the mandrel (6) the net (5) can be retracted inside the catheter before the catheter is inserted into the ureter. USE - Removal of stones from the ureter.

**DE 4330958**

The invention relates to novel microparticles containing active compound, which, additionally to the active compound(s), contain at least one gas or gaseous phase, media (microparticulate systems) containing these particles, their use for the ultrasonically controlled in vivo release of active compound and process for the production of the particles and media.

**DE 4403789**

The invention relates to the use of coloured NMR, X-ray or possibly dye-containing ultrasonic-image-producing substances for marking bodily tissues.

**DE 935625**

This reference discloses a biopsy instrument and method for acquiring subcutaneous biopsies and for removing lesions.

**FR 2714284**

The prosthesis consists of a circular component made from a supple material with a shape memory effect, able to occupy three different positions. In the first position (2) it is extended lengthwise to form a small cylinder which can be introduced through a catheter, with its proximal end closed by a valve (4). In a second position the two compartments (8,10) are inflated separately so that they are deployed on opposite sides of the ruptured wall, while in the third position the compartments are squeezed together to form a double patch on the wall. The prosthesis has a radio-opaque marker (6) between the two compartments which allows its progress through the patient's body to be monitored.

**PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:**

A check in the amount of \$180.00 is enclosed for the above fee(s).  
 Please charge \$180.00 to Deposit Account No. **50-2862** for the above fee(s).

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to O'Melveny and Myers' Deposit Account No. **50-2862**.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: March 21, 2006

By: Diane Wong  
Diane Wong  
Reg. No. 54,550  
Attorneys for Applicant

DKW/  
O'MELVENY & MYERS LLP  
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MAR 23 2006

INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT

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|                      |               |
|----------------------|---------------|
| Application No.      | 10/628,090    |
| Filing Date          | July 25, 2003 |
| First Named Inventor | Fulton        |
| Art Unit             | 3736          |
| Examiner Name        | Szmal         |

Sheet

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of

6

Attorney Docket No.

032,290-066

## U.S. PATENT DOCUMENTS

| Examiner Initials | Cite No. <sup>1</sup> | Document No.                             | Publication Date<br>MM-DD-YYYY | Name of Patentee or<br>Applicant of Cited Document | Pages, Columns, Lines, Where Relevant<br>Passages or Relevant Figures Appear |
|-------------------|-----------------------|--|--------------------------------|--|--|
|                   |                       | Number-Kind Code <sup>2</sup> (if known) |                                |  |  |
|                   | 1.                    | us-20010034528                           | 10/2001                        | Foerster   |  |
|                   | 2.                    | us-20020007130                           | 01/2002                        | Burbank  |  |
|                   | 3.                    | us-20020016555                           | 02/2002                        | Ritchard   |  |
|                   | 4.                    | us-20020019640                           | 02/2002                        | McGuckin, Jr.                                      |  |
|                   | 5.                    | us-20020035324                           | 03/2002                        | Sirimanne  |  |
|                   | 6.                    | us-20020107437                           | 08/2002                        | Sirimanne  |  |
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|                   | 14.                   | us-3,001,522                             | 09/1961                        | Silverman  |  |
|                   | 15.                   | us-3,194,239                             | 07/1965                        | Sullivan   |  |
|                   | 16.                   | us-3,823,212                             | 07/1974                        | Chvapil  |  |
|                   | 17.                   | us-3,976,071                             | 08/1976                        | Sadek  |  |
|                   | 18.                   | us-3,996,938                             | 12/1976                        | Clark, III   |  |
|                   | 19.                   | us-4,197,846                             | 04/1980                        | Bucalo   |  |
|                   | 20.                   | us-4,230,123                             | 10/1980                        | Hawkins  |  |
|                   | 21.                   | us-4,298,998                             | 11/1981                        | Naficy   |  |
|                   | 22.                   | us-4,320,201                             | 03/1982                        | Berg   |  |
|                   | 23.                   | us-4,356,572                             | 11/1982                        | Guillemin  |  |
|                   | 24.                   | us-4,425,908                             | 01/1984                        | Simon  |  |
|                   | 25.                   | us-4,608,965                             | 09/1986                        | Anspach, Jr.                                       |  |
|                   | 26.                   | us-4,611,594                             | 09/1986                        | Grayhack   |  |
|                   | 27.                   | us-4,638,802                             | 01/1987                        | Okada  |  |
|                   | 28.                   | us-4,650,466                             | 03/1987                        | Luther   |  |

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|--------------------|-----------------|
| Examiner Signature | Date Considered |
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\*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emporer must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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| Examiner Name        | Szmal         |

Sheet **2** of **6** Attorney Docket No. **032,290-066****U.S. PATENT DOCUMENTS**

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|-------------------|-----------------------|--|--------------------------------|--|--|
|                   |                       | Number-Kind Code <sup>2</sup> (if known) |                                |  |  |
|                   | 29.                   | us-4,655,211                             | 04/1987                        | Sakamoto   |  |
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|                   | 48.                   | us-5,183,463                             | 02/1993                        | Debbas   |  |
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|                   | 50.                   | us-5,192,300                             | 03/1993                        | Fowler   |  |
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|-------|---|----|---|---------------------|-------------|
| Sheet | 3 | of | 6 | Attorney Docket No. | 032,290-066 |
|-------|---|----|---|---------------------|-------------|

## U.S. PATENT DOCUMENTS

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|-------------------|-----------------------|--|--------------------------------|--|--|
|                   |                       | Number-Kind Code <sup>2</sup> (if known) |                                |  |  |
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|                   | 79.                   | us-5,803,901                             | 09/1998                        | Chin   |  |
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|                    |                 |
|--------------------|-----------------|
| Examiner Signature | Date Considered |
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\*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emporer must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

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# INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

|       |   |    |   |                     |             |
|-------|---|----|---|---------------------|-------------|
| Sheet | 4 | of | 6 | Attorney Docket No. | 032,290-066 |
|-------|---|----|---|---------------------|-------------|

## Complete if Known

| Examiner Initials | Cite No. <sup>1</sup> | Document No.                             | Publication Date<br>MM-DD-YYYY | Name of Patentee or<br>Applicant of Cited Document | Pages, Columns, Lines, Where Relevant<br>Passages or Relevant Figures Appear |
|-------------------|-----------------------|--|--------------------------------|--|--|
|                   |                       | Number-Kind Code <sup>2</sup> (if known) |                                |  |  |
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|                   | 89.                   | us-6,027,520                             | 02/2000                        | Tsugita  |  |
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|                   | 102.                  | us-6,352,682                             | 03/2002                        | Leavitt  |  |
|                   | 103.                  | us-6,356,782                             | 03/2002                        | Sirimanne  |  |
|                   | 104.                  | us-6,371,904                             | 04/2002                        | Sirimanne  |  |
|                   | 105.                  | us-6,589,502                             | 07/2003                        | Coniglione   |  |
|                   | 106.                  | us-6,605,047                             | 08/2003                        | Zarins   |  |
|                   | 107.                  | us-6,638,308                             | 10/2003                        | Corbitt  |  |
|                   | 108.                  | us-6,656,200                             | 12/2003                        | Li   |  |
|                   | 109.                  | us-6,699,205                             | 03/2004                        | Fulton   |  |
|                   | 110.                  | us-6,730,042                             | 05/2004                        | Fulton   |  |
|                   | 111.                  | us-6,749,554                             | 06/2004                        | Snow   |  |
|                   | 112.                  | us-RE34,936                              | 05/1995                        | Campbell   |  |

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|--------------------|-----------------|
| Examiner Signature | Date Considered |
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| Sheet | 5 | of | 6 | Attorney Docket No. | 032,290-066 |
|-------|---|----|---|---------------------|-------------|

**Complete if Known**

|                      |               |
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| Application No.      | 10/628,090    |
| Filing Date          | July 25, 2003 |
| First Named Inventor | Fulton        |
| Art Unit             | 3736          |
| Examiner Name        | Szmal         |

**FOREIGN PATENT DOCUMENTS**

| Examiner Initials* | Cite No. <sup>1</sup> | Foreign Patent Document<br>Country Code <sup>3</sup> Number <sup>4</sup> Kind Code (if known) | Publication Date<br>MM-DD-YYYY | Name of Patentee or<br>Applicant of Cited Document | Pages, Columns, Lines,<br>Where Relevant Passages<br>or Relevant Figures<br>Appear | T <sup>5</sup> |
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|                               |   |    |   | Filing Date              | July 25, 2003 |
|                               |   |    |   | First Named Inventor     | Fulton        |
|                               |   |    |   | Art Unit                 | 3736          |
|                               |   |    |   | Examiner Name            | Szmal         |
| Sheet                         | 6 | of | 6 | Attorney Docket No.      | 032,290-066   |

| NON PATENT LITERATURE DOCUMENTS |                       |   |                |
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| Examiner Initials*              | Cite No. <sup>1</sup> | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s) volume-issue number(s), publisher, city and/or country where published | T <sup>2</sup> |
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